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Oceans and the law of the sea

Identical letters dated 28 October 2005 from the Permanent Representatives of Indonesia, Malaysia and Singapore to the United Nations addressed to the Secretary-General and the President of the General Assembly

We have the honour to inform you that the Government of the Republic of Indonesia, the Government of Malaysia and the Government of the Republic of Singapore met in Batam, on 1 and 2 August 2005, to discuss matters pertaining to the safety of navigation, environmental protection and maritime security in the Straits of Malacca and Singapore. The meeting unanimously adopted the Batam joint ministerial statement on the Straits of Malacca and Singapore (see annex I), in which the three countries acknowledged the role that the State users of the Straits and relevant international agencies could play in respect of the Straits. The ministerial statement also reaffirmed the primary responsibility of the littoral States for the safety of navigation, environmental protection and maritime security in the area.

Towards designing a framework of cooperation for enhancing safe navigation, environmental protection and security in the Straits of Malacca and Singapore, the three Governments, with the close collaboration of the International Maritime Organization, also convened a "Meeting on the Straits of Malacca and Singapore: Enhancing Safety, Security and Environmental Protection" in Jakarta on 7 and 8 September 2005. The meeting produced the Jakarta Statement (see annex II), which emphasizes the need to balance the interest of the littoral States and the user States while respecting the sovereignty of the littoral States, and to establish a mechanism to facilitate cooperation between them to discuss issues relating to the safety, security and environmental protection of the Straits, including exploring possible options for burden sharing.

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We would be grateful if you would have the present letter and its annexes circulated as a document of the General Assembly under agenda item 75 and treat it as a source of inputs into the discussion of the agenda item.

(*Signed*) Rezlan Ishar **Jenie**
Ambassador
Permanent Representative
Republic of Indonesia

(*Signed*) Hamidon **Ali**
Ambassador
Permanent Representative
Malaysia

(*Signed*) Vanu Gopala **Menon**
Ambassador
Permanent Representative
Republic of Singapore

Annex I to the identical letters dated 28 October 2005 from the Permanent Representatives of Indonesia, Malaysia and Singapore to the United Nations addressed to the Secretary-General and the President of the General Assembly

The Batam Joint Ministerial Statement on the Straits of Malacca and Singapore

BATAM, INDONESIA
1-2 AUGUST 2005

1. The Ministers of Foreign Affairs of Indonesia, Malaysia and Singapore met in Batam, on 1-2 August 2005 to discuss matters pertaining to the safety of navigation, environmental protection and maritime security in the Straits of Malacca and Singapore. The Foreign Ministers of Malaysia and Singapore appreciated the initiative of the Foreign Minister of Indonesia for convening this timely Meeting in view of the current challenges faced by the littoral States and user States of the Straits.

2. The Ministers noted that the last Tripartite Ministerial Meeting of the Straits of Malacca and Singapore was held 28 years ago on 24 February 1977 in Manila, the Philippines.

3. The Ministers reaffirmed the sovereignty and sovereign rights of the Littoral States over the Straits of Malacca and Singapore. As such, the primary responsibility over the safety of navigation, environmental protection and maritime security in the Straits of Malacca and Singapore lies with the littoral States.

4. The Ministers emphasized that whatever measures undertaken in the Straits should be in accordance with international law including UNCLOS 1982. In this regard they acknowledge the role that user States and relevant international agencies could play in respect of the Straits.

5. The Ministers recognized the importance of the Tripartite Ministerial Meeting on the Straits of Malacca and Singapore in providing the overall framework for cooperation. They agreed that the Ministers and the Senior Officials should meet on a more regular basis to address relevant issues in a timely manner.

6. The Ministers acknowledged the good work carried out by the Tripartite Technical Experts Group (TTEG) on Safety of Navigation in the Straits of Malacca and Singapore. They also recognized the efforts of the

Revolving Fund Committee (RFC) in dealing with issues of environmental protection in the Straits.

7. The Ministers supported the convening of the Meeting in Kuala Lumpur on 1-2 August 2005 of the Service Chiefs of Indonesia, Malaysia, Singapore and Thailand and encouraged them to further strengthen their cooperation.

8. The Ministers agreed to establish a TTEG on Maritime Security to complement the works of the existing TTEG on Safety of Navigation and the Revolving Fund Committee.

9. The Ministers called upon user States, relevant international agencies, and the shipping community to assist the littoral States in the areas of capacity building, training and technology transfer, and other forms of assistance in accordance with UNCLOS 1982. In this regard they welcomed closer collaboration between littoral States and the international community.

10. The Ministers expressed regret at the Lloyds Joint War Committee's categorization of the Straits of Malacca and Singapore as a "war risk zone" without consulting and taking into account the existing efforts of the littoral States to deal with the problems of safety of navigation and maritime security. The Ministers urged the Committee to review its assessment accordingly.

11. The Ministers welcomed the forthcoming "Meeting on the Straits of Malacca and Singapore: Enhancing Safety, Security and Environmental Protection" in collaboration with the International Maritime Organization to be held on 7-8 September 2005 in Jakarta, Indonesia.

Batam, 2 August 2005.

Annex II to the identical letters dated 28 October 2005 from the Permanent Representatives of Indonesia, Malaysia and Singapore to the United Nations addressed to the Secretary-General and the President of the General Assembly

JAKARTA STATEMENT

ON

ENHANCEMENT OF SAFETY, SECURITY AND ENVIRONMENTAL PROTECTION IN THE STRAITS OF MALACCA AND SINGAPORE

Jakarta, Indonesia, on 8 September 2005

The Government of the Republic of Indonesia and the International Maritime Organization (IMO) convened, pursuant to the decisions of the ninety-third and ninety-fourth sessions of the IMO Council in relation to the Protection of Vital Shipping Lanes, a Meeting on the Straits of Malacca and Singapore: Enhancing Safety, Security and Environmental Protection, which took place in Jakarta on 7 and 8 September 2005 (hereinafter referred to as "the Jakarta Meeting"). The Jakarta Meeting was organized in co-operation with the Government of Malaysia and the Government of the Republic of Singapore.

The purpose of the Jakarta Meeting was to provide a forum for discussions with the aim of agreeing on a framework of co-operation to enhance the safety of navigation, environmental protection and security in the Straits of Malacca and Singapore (hereinafter referred to as "the Straits").

The Jakarta Meeting was attended by delegations from:

AUSTRALIA
BAHAMAS
CANADA
CHINA
CROATIA
DENMARK
EGYPT
FRANCE
GERMANY
GREECE
INDIA
INDONESIA
IRAN (ISLAMIC REPUBLIC OF)
ITALY
JAPAN
KUWAIT
LAO PEOPLE'S DEMOCRATIC REPUBLIC
MALAYSIA
NETHERLANDS
NEW ZEALAND
NORWAY
PAKISTAN
PHILIPPINES

REPUBLIC OF KOREA
RUSSIAN FEDERATION
SINGAPORE
SPAIN
THAILAND
TURKEY
UNITED KINGDOM
UNITED REPUBLIC OF TANZANIA
UNITED STATES
VIET NAM
YEMEN

by observers from the following intergovernmental organizations:

INTERNATIONAL HYDROGRAPHIC ORGANIZATION (IHO)
ASSOCIATION OF SOUTH EAST ASIAN NATIONS (ASEAN)

and by observers from the following non-governmental organizations:

INTERNATIONAL CHAMBER OF SHIPPING (ICS)
INTERNATIONAL CONFEDERATION OF FREE TRADE UNIONS (ICFTU)
OIL COMPANIES INTERNATIONAL MARINE FORUM (OCIMF)
INTERNATIONAL FEDERATION OF SHIPMASTERS' ASSOCIATIONS (IFSMA)
INTERNATIONAL ASSOCIATION QF INDEPENDENT TANKER OWNERS (INTERTANKO)
INTERNATIONAL GROUP OF P AND I CLUBS (P AND I)
MALACCA STRAIT COUNCIL

The Jakarta Meeting,

RECOGNIZING the strategic importance of the Straits for regional and global seaborne trade and the need to ensure that they remain safe and open to shipping at all times;

RECOGNIZING ALSO that the Straits are located within the territorial sea of Indonesia, Malaysia and Singapore (hereinafter referred to collectively as the "littoral States") and within the continental shelf and the exclusive economic zone of Indonesia and Malaysia and are straits used for international navigation as defined in the United Nations Convention on the Law of the Sea (hereinafter referred to as "UNCLOS");

RECOGNIZING FURTHER the safety, security and environmental vulnerabilities of the Straits and the possibility that unlawful acts committed therein may have a serious negative impact on the flow of traffic there-through;

NOTING with particular concern the number of incidents of unlawful acts and armed robbery against ships and seafarers reported to have taken place in the Straits;

BEING AWARE of the multiplicity of interests in the Straits and the importance of balancing the interests between littoral and user States, while respecting the sovereignty of the littoral States;

ACKNOWLEDGING the rights and obligations of States under the international law of the sea, including the provisions of UNCLOS and, in particular, article 43 thereof calling for co-operation by agreement among user States and States bordering straits used for international navigation on matters relating to navigational and safety aids and the prevention, reduction and control of pollution from ships;

ACKNOWLEDGING ALSO the efforts and achievements of the Tripartite Technical Experts Group on Safety of Navigation (hereinafter after referred to as "TTEG") comprising officials of the three littoral States in enhancing the safety of navigation in, and the environmental protection of, the Straits and, in particular, through routeing measures, including Traffic Separation Schemes, deep water routes, precautionary areas and ship reporting systems adopted by IMO, as well as the TTEG's progress in advancing cooperation in the maintenance of the Straits, consonant with article 43 of UNCLOS;

RECALLING that the United Nations General Assembly resolution A/RES/59/24 on Oceans and the Law of the Sea, while addressing the issues relating to maritime safety and security and the marine environment, has, *inter alia:*

1. urged all States, in cooperation with IMO, to combat piracy and armed robbery at sea;

2. noted the concerns of the IMO Council and IMO Secretary-General with regard to keeping shipping lanes of strategic importance and significance safe and open to international maritime traffic and thereby ensuring the uninterrupted flow of traffic, and welcomed the Council's request, in this regard, that the Secretary-General of IMO continue work on the issue in collaboration with parties concerned; and

3. emphasized the importance to protect and preserve the marine environment and its living marine resources against pollution and physical degradation;

RECALLING ALSO the ASEAN Declarations, Statements, Joint Communiqués and Action Plans on Combating Terrorism; including the ASEAN Regional Forum Statements on Cooperation Against Piracy and Other Threats to Maritime Security and on Strengthening Transport Security Against International Terrorism;

UPHOLDING the Batam Joint Statement, adopted on 2 August 2005 by the Fourth Tripartite Ministerial Meeting of the Littoral States on the Straits of Malacca and Singapore, which, *inter alia:*

1. reaffirms that the primary responsibility over the safety of navigation, environmental protection and maritime security in the Straits lies with the littoral States;

2. emphasizes that whatever measures are undertaken in the Straits should be in accordance with international law including UNCLOS and in this regard acknowledges the interests of user States and relevant international agencies and the role they could play in respect of the Straits;

3. recognizes the importance of the Tripartite Ministerial Meeting on the Straits of Malacca and Singapore in providing the overall framework for co-operation;

4. recognizes the importance of engaging the States bordering the funnels leading to the Straits and the major users of the Straits;

5. acknowledges that the littoral States should address the issues of maritime security comprehensively which includes transboundary crimes such as piracy, armed robbery and terrorism;

6. acknowledges also the work of the TTEG on Safety of Navigation and the Revolving Fund Committee which manages a fund for enabling the prompt response to oil spills from ships;

7. provides for the establishment of a Tripartite Technical Expert Group on Maritime Security to complement the work of the TTEG on Safety of Navigation and the Revolving Fund Committee; and

8. recognizes the importance of and welcomes the closer collaboration between the littoral States and the international community and, in particular, the assistance of the user States, relevant international agencies, and the shipping community in areas of capacity building, training and technology transfer, and other forms of assistance in accordance with UNCLOS;

RECOGNIZING the previous efforts of IMO through international conferences and regional workshops in 1993, 1996,1999 and 2001, and other regional fora such as the ASEAN and the ASEAN Regional Forum, to promote greater co-operation among littoral States and stakeholders in maritime safety and marine environment protection, as well as in regional anti-piracy co-operative arrangements;

COMMENDING the efforts of the defense forces of the littoral States and Thailand in strengthening modalities for co-operation such as the initiative of Indonesia on the Malacca Strait Security Initiative in an effort to enhance maritime security in the Straits;

RECOGNIZING the positive results of co-ordinated maritime patrols among the security forces of the littoral States and other co-operative maritime security arrangements and measures in the Straits;

ACKNOWLEDGING the potential of the Marine Electronic Highway concept, currently under development by IMO in co-operation with the littoral States and other stakeholders, in enhancing navigational safety and environmental protection in the Straits and the littoral States' decision to establish a pilot project of the Marine Electronic Highway, with the Project Management Office in Batam, Indonesia;

NOTING the valuable role and function of the Maritime Enforcement Co-ordination Center in Perak, Malaysia in addressing unlawful acts and armed robbery against ships;

NOTING ALSO the importance of the forthcoming establishment of the ReCAAP Information Sharing Center in Singapore, in addressing piracy and armed robbery against ships and welcoming the signing of ReCAAP by five States;

NOTING WITH APPRECIATION the contribution States and other stakeholders have made and continue to make towards the enhancement of the safety of navigation in, and the protection of the environment of, the Straits;

RESPECTING FULLY the sovereignty, sovereign rights, jurisdiction and territorial integrity of the littoral States, the principle of non-intervention, and the relevant provisions of international law, in particular the UNCLOS;

DESIRING that the Straits remain safe and open to international shipping at all times, as provided for under international law, in particular UNCLOS, and where applicable, domestic law, and to build upon and enhance existing cooperative arrangements and measures towards this end;

DESIRING FURTHER to enhance the safety, security and environmental protection of the Straits;

HAS AGREED:

(a) that the work of the TTEG on Safety of Navigation in enhancing the safety of navigation and in protecting the marine environment in the Straits, including the efforts of the TTEG in relation to the implementation of article 43 of UNCLOS in the Straits should continue to be supported and encouraged;

(b) that a mechanism be established by the three littoral States to meet on a regular basis with user States, the shipping industry and others with an interest in the safe navigation through the Straits, to discuss issues relating to

the safety, security and environmental protection of the Straits, as well as to facilitate co-operation in keeping the Straits safe and open to navigation, including exploring the possible options for burden sharing, and to keep the IMO informed, as appropriate, of the outcome of such meetings;

(c) that efforts should be made through the three littoral States to establish and enhance mechanisms for information exchange within and between States, building, where possible, on existing arrangements such as Tripartite Technical Expert Group mechanisms, so as to enhance maritime domain awareness in the Straits and thus contribute to the enhancement of co-operative measures in the areas of safety, security and environmental protection;

(d) to promote, build upon and expand co-operative and operational arrangements of the three littoral States, including the Tripartite Technical Expert Group on Maritime Security, co-ordinated maritime patrols in the Straits through, *inter alia,* maritime security training programmes and other forms of co-operation, such as maritime exercises, with a view to further strengthening capacity building in the littoral States to address security threats to shipping;

HAS INVITED the IMO to consider, in consultation with the littoral States, convening a series of follow-on meetings for the littoral States to identify and prioritize their needs, and for user States to identify possible assistance to respond to those needs, which may include information-exchange, capacity-building, training and technical support, with a view to promote and co-ordinate co-operative measures;

EXPRESSES DEEP APPRECIATION to the Government of the Republic of Indonesia for the excellent arrangements made for, the facilities and generous hospitality provided during, the Jakarta Meeting; and to the Governments of the Republic of Indonesia, Malaysia and the Republic of Singapore and the International Maritime Organization for their strenuous efforts to prepare for the Jakarta Meeting and ensure its successful conclusion.